

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

TITLE 31: PUBLIC SAFETY

PART 506: CRIME LAB – BREATH ALCOHOL TESTING STANDARD OPERATING PROCEDURES

Part 506 Chapter 1 Purpose and Scope

Rule 1.1 Purpose and Scope

The purpose of this Breath Alcohol Testing document is to establish rules and regulations applicable to the Implied Consent laws of the State of Mississippi pursuant to *Miss. Code Ann.* § 63-11-1.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 2 Definitions

Rule 2.1 Definitions

1. Alcohol – Ethyl alcohol and may include isopropyl and methyl alcohol.
2. BrAC – Breath Alcohol Concentration, measured as grams of alcohol per 210 liters of breath.
3. Breath Alcohol Reference Standard Solution – A water-alcohol solution compounded for use in a simulator which, when equilibrated with air, yields a predictable alcohol concentration.
4. Calibration Check – The verification of evidentiary breath alcohol instruments accuracy using a certified dry gas standard and obtaining a result within $\pm .005$ of the expected value.
5. Certifier of Calibration – A person who has received specialized training in the operation and the calibration check of evidentiary breath alcohol instruments and is certified to perform calibration checks.
6. CMI, Inc. – Company at 316 East Ninth Street, Owensboro, Kentucky 42303, that manufactures the Intoxilyzer 8000 evidential breath alcohol test instrument.
7. Evidentiary Breath Alcohol Instrument – An instrument used for making a chemical analysis of breath and giving a resultant alcohol concentration for evidential purposes.
8. Guth Laboratories, Inc. – Company at 590 North Street, Harrisburg, Pennsylvania 17111, that manufactures breath alcohol reference standard solutions and 34C Simulator.

9. Implied Consent – Any person who operates a motor vehicle upon the public highways, public roads and streets of this state shall be deemed to have given his consent, subject to the provisions of *Miss. Code Ann.* § 63-11-5, to a chemical test or tests of his breath for the purpose of determining alcohol concentration.
10. Intoxilyzer 8000 – An automated, microprocessor controlled instrument utilizing infrared spectrophotometry used for evidentiary breath alcohol analysis.
11. Lot – An entire batch of breath alcohol reference standard solution or dry gas ethanol standard.
12. Mouth Alcohol – Residual alcohol in the mouth which typically dissipates in less than ten minutes.
13. NCIC – The National Crime Information Center.
14. N.I.S.T. – National Institute of Standards and Technology.
15. No 0.020 Agreement – Operational message printed when consecutive subject test results differ by more than 0.020.
16. Observation Period – A period during which the person being tested has been observed to determine that he has not ingested alcohol or other fluids, regurgitated, vomited, eaten, smoked, or placed anything into his mouth in the twenty (20) minutes immediately prior to the collection of a breath sample.
17. Radio Frequency Interference (RFI) Detect – The alcohol instrument detects interfering radio frequency and stops the testing procedure if RFI is detected.
18. Simulator – A specially designed constant temperature water-alcohol solution bath instrument devised for the purpose of providing a standard alcohol-air mixture that simulates breath.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 3 Evidentiary Breath Alcohol Instrument

Rule 3.1 Evidentiary Breath Alcohol Instrument

The Department of Public Safety has adopted the Intoxilyzer 8000 Mississippi Version of which is manufactured by CMI, Inc. as the only accepted evidentiary instrument for use in breath

alcohol testing in the State of Mississippi pertaining to the Implied Consent laws in the Mississippi Code of 1972 Annotated.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 4 Intoxilyzer 8000 Instrument Certification

Rule 4.1 Intoxilyzer 8000 Instrument Certification

Pursuant to *Miss. Code Ann.* §§ 63-11-1 and 63-11-19, all Intoxilyzer 8000 instruments used for evidentiary breath alcohol testing shall have a Certification of Calibration and Operation (Form IP-54E) on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 5 Intoxilyzer Locations

Rule 5.1 Intoxilyzer Locations

An agency may submit a request in writing to be considered by the Implied Consent Section of the Mississippi Crime Laboratory or designee as an Intoxilyzer 8000 location. Criteria to be used in the selection of Intoxilyzer 8000 locations are specified in Part 506 Chapter 6 Intoxilyzer Location Certification. If an agency desires to purchase its own instrument, *Miss. Code Ann.* § 63-11-47 will apply. Each location must meet all criteria for location certification. The Implied Consent Section of the Mississippi Crime Laboratory or designee will evaluate each agency's request based upon established criteria for Intoxilyzer 8000 locations and will approve or disapprove the proposed location and will be notified in writing.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 6 Intoxilyzer Location Certification

Rule 6.1 Intoxilyzer Location Certification

1. Pursuant to *Miss. Code Ann.* §§ 63-11-1 and 63-11-19, all Intoxilyzer 8000 locations will be certified using the Intoxilyzer Location Certification (Form IP-65E), which is on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee. All certified locations must follow any and all directives concerning use and care of the Intoxilyzer 8000 instruments in order to maintain the Intoxilyzer 8000 Certification. In order for an agency to be selected and approved as an Intoxilyzer 8000 location, it must meet all the following criteria:
 - a. Designate and maintain a secure location for instrument installation.

- b. Provide adequate work space and secure storage for expendables such as printer paper and mouth pieces.
 - c. Insure that supplies left at location for the Intoxilyzer 8000 are to be used only for that instrument.
 - d. Instrument **MUST** be maintained in a clean area away from eating, drinking, and smoking.
 - e. Provide grounded electrical outlet meeting Intoxilyzer 8000 instrument specifications.
 - f. The location will provide a dedicated analog phone line for the Intoxilyzer 8000 or NCIC line for communication with the Implied Consent Section of the Mississippi Crime Laboratory or designee. If the location is mobile (SUV, truck, van, etc.), the agency shall bring their assigned instrument to the Implied Consent Section of the Mississippi Crime Laboratory or designee as required for maintenance, downloading, uploading, and calibration.
 - g. Allow all qualified individuals with permits issued under *Miss. Code Ann.* § 63-11-19 access to instrument for the purpose of conducting breath alcohol testing.
 - h. Average of 2 or more tests a month per calendar year to maintain certifications.
 - i. Allow MHP and MCL personnel access to instruments for routine inspections, calibration checks, or any needed service.
 - j. Assume responsibility for repair costs resulting from abuse of instrument.
 - k. Instrument must pass IP-60E checklist at location.
 - l. Supply paper and toner cartridges for the external printer provided with the Intoxilyzer 8000.
 - m. The location must comply with any and all Implied Consent directives issued by the Implied Consent Section of the Mississippi Crime Laboratory or designee.
 - n. Use of the Intoxilyzer 8000 shall be restricted to the enforcement of DUI and BUI Laws of the Mississippi Code of 1972 Annotated.
2. If the location fails to meet these requirements, the location will be notified in writing of the areas needing improvement. If the deficiencies are not corrected, the instrument will be removed from service in that location and the Instrument Location Certification will be suspended or revoked. The Intoxilyzer Location Certification can be re-instated if the appropriate corrections are implemented and maintained. Instrument Location Certifications are issued or revoked at the discretion of the Implied Consent Section of the Mississippi Crime Laboratory or designee.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 7 Breath Alcohol Simulator

Rule 7.1 Breath Alcohol Simulator

The breath alcohol simulators are to be certified yearly or as required by repair or service. The certification is reported on the Implied Consent Simulator Certification (Form IP-62E) and is on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 8 Certified Breath Alcohol Standards

Rule 8.1 Certified Breath Alcohol Standards

Breath alcohol reference standard solutions are purchased in the concentrations utilized in the calibration of the Intoxilyzer 8000. These solutions are certified by the manufacturer to be consistent of each concentration throughout the lot. The Mississippi Crime Laboratory analyzes random samples of each lot number of breath alcohol reference standard solutions to ascertain the concentration value for use in the calibration of the Intoxilyzer 8000. The analysis of the breath alcohol reference standard solutions is performed using gas chromatography. The result of analysis is reported on the Implied Consent Certificate of Analysis (Form IP-61) and is on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 9 Dry Gas Ethanol Standard

Rule 9.1 Dry Gas Ethanol Standard

Dry gas ethanol standards are purchased from manufacturers that certify the ethanol concentration using N.I.S.T. traceable standards. Each lot of dry gas ethanol standard comes with a manufacturer's certificate of analysis. This certificate is on file with the Implied Consent Section of the Mississippi Crime Laboratory or designee. These dry gas standards are used to check the calibration of the Intoxilyzer 8000.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 10 Intoxilyzer Calibration Check

Rule 10.1 Intoxilyzer Calibration Check

Miss. Code Ann. § 63-11-19 requires that calibration checks be performed at least once a quarter on breath alcohol instruments. The calibration checks of Intoxilyzer 8000 instruments are performed when an instrument is installed or removed from a location, when a dry gas ethanol standard is changed and with each breath test. The quarterly calibration checks are performed remotely by the Implied Consent Section of the Mississippi Crime Laboratory or designee. These are recorded on Form IP-16E. Certifiers of calibration perform calibration checks on instruments: a) when they are installed, b) removed from a location if possible, and C) when a dry gas ethanol standard is changed. These calibration checks are recorded on Form IP-03E. The calibration checks performed with each breath test are automatically performed by the instrument during the breath test sequence. These calibration check results are recorded on each breath test on Form IP-01E.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 11 Release of Information

Rule 11.1 Release of Information

Records of two (2) calibration checks (the calibration check immediately before and the calibration check immediately after the subject test in question) will be supplied upon request. The request must be made in writing giving the test subject's name, the date of the test, the testing location, and the serial number of the instrument used to perform the test. The Implied Consent Section of the Mississippi Crime Laboratory or designee will adhere to U.S. Copyright laws as to the release of any copyrighted materials.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 12 Records Maintenance

Rule 12.1 Records Maintenance

All official records for the Intoxilyzer 8000 of the State of Mississippi will be maintained by the Implied Consent Section of the Mississippi Crime Laboratory or designee. The records will be maintained in either an electronic file or paper file.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 13 Permits to Conduct Breath Alcohol Tests

Rule 13.1 Permits to Conduct Breath Alcohol Tests

Pursuant to *Miss. Code Ann.* §§ 63-11-5 and 63-11-19, operators conducting a chemical test of an individual's breath to ascertain alcohol level shall hold a valid permit issued by the Mississippi Crime Laboratory or designee in order to conduct such tests. The Permit to Conduct Breath Analysis (Form IP-51E) for determination of alcohol level shall be valid for twenty-four (24) months. Pursuant to *Miss. Code Ann.* §§ 63-11-5 and 45-6-1, et seq., no permit will be issued to any law enforcement officer who has not met minimum standards;" provided, however, that sheriffs and elected chiefs of police shall be exempt from such educational and training requirements."

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 14 Operator Training

Rule 14.1 Operator Training

Pursuant to *Miss. Code Ann.* §§ 63-11-5 and 63-11-19, in order to receive a permit to conduct breath alcohol tests, an individual must successfully complete the training program for Intoxilyzer 8000 operator certifications. This training program is taught by persons of the Implied Consent Section of the Mississippi Crime Laboratory or designee who have been certified in the operation and calibration check of the Intoxilyzer 8000 by the Mississippi Crime Laboratory. All training materials for the Intoxilyzer 8000 must be approved by the Implied Consent Section of the Mississippi Crime Laboratory or designee.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 15 Renewal of Operator Permit

Rule 15.1 Renewal of Operator Permit

Prior to the expiration of a valid Permit to Conduct Breath Analysis (Form IP-51E), the operator must renew his permit in order to continue to conduct chemical tests of an individual's breath to determine alcohol level. The permit renewal is issued by the Implied Consent Section of the Mississippi Crime Laboratory or designee. If an operator fails to renew the Permit to Conduct Breath Analysis before the expiration date, the Permit is no longer valid. Before the operator can be reissued a Permit to Conduct Breath Analysis and resume conducting breath analysis, he must demonstrate his ability to perform a breath test on the Intoxilyzer 8000 to the Operator Trainer of the Implied Consent Section of the Mississippi Crime Laboratory or designee. If this is not done within six (6) months of the expiration of the Permit to Conduct Breath Analysis, the operator

must complete the training program for the Intoxilyzer 8000 operator certification as described in the Operator Training section of this document.

Source: *Miss. Code Ann.* § 45-1-3

Part 506 Chapter 16 Implied Consent Forms

Rule 16.1 Implied Consent Forms

The following Implied Consent forms are available upon request from the Implied Consent Section of the Mississippi Crime Laboratory or designee:

- a. IP-01E Breath Test Report
- b. IP-03E Intoxilyzer 8000 Calibration Certificate
- c. IP-04E Removal of Instrument
- d. IP-11E Permit Application
- e. IP-12E Receipt for Driver License (.02 BrAC or greater)
- f. IP-14E Receipt for Driver License (Refusal)
- g. IP-16E Remote Calibration Certification
- h. IP-51E Permit to Conduct Breath Analysis
- i. IP-54E Certificate of Calibration and Operation
- j. IP-55E Implied Consent Intoxilyzer 8000 Service Record
- k. IP-60E Intoxilyzer 8000 Installation Checklist
- l. IP-61 Implied Consent Certificate of Analysis (Alcohol Reference Solution)
- m. IP-62E Implied Consent Simulator Certification
- n. IP-64E Instrument Location Certification Checklist
- o. IP-65E Intoxilyzer 8000 Location Certification

Source: *Miss. Code Ann.* § 45-1-3